

## REMARKS

The Office Action dated December 4, 2008 has been received and carefully considered. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the following remarks.

### Allowed Claims

Applicants note with appreciation the indication at page 13 of the Office Action that claims 17-30 are allowed.

### Obviousness Rejection of Claims 1-3, 8, 9, 13, 16, 31, 33, 37, 38, 40, 41, 43, 46, 47, 49-52, 63, and 64

At page 3 of the Office Action, claims 1-3, 8, 9, 13, 16, 31, 33, 37, 38, 40, 41, 43, 46, 47, 49-52, 63, and 64 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Daellenbach (U.S. Patent App. Pub. No. 2003/0168508) (hereinafter “the Daellenbach publication”), in view of Ciacelli (U.S. Patent No. 6,236,727). This rejection is hereby respectfully traversed.

Claim 1 recites “sending a first encrypted routine of a software driver to a peripheral device, wherein the software driver is to interface with the peripheral device.” According to the Office Action at page 4, these elements are disclosed by lines 10-11 and 13-15 of paragraph [0069] of the Daellenbach publication, as well as Sections 3.3.7 of a provisional application (hereinafter referred to as the “Daellenbach provisional”) filed March 11, 2002 from which the Daellenbach publication is based. With respect to the Daellenbach **publication**, as previously explained in Applicants’ Response to Office Action filed October 20, 2008, this reference is not prior art with respect to the present application. In particular, according to the MPEP § 2136.03:

The 35 U.S.C. 102(e) critical reference date of a U.S. patent or U.S. application publications and certain international application publications entitled to the benefit of the filing date of a provisional application under 35 U.S.C. 119(e) is the filing date of the provisional application with certain exceptions **if the provisional application(s) properly supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. 112, first paragraph.**

(emphasis added). In this case, the application from which the Daellenbach publication was issued was filed on March 11, 2002, which is subsequent (not prior) to November 14, 2001 (i.e., the filing date of the present application). Accordingly, the cited paragraph of the Daellenbach publication is not prior art to the present application.

The Office responds at page 2 that the Daellenbach provisional was filed prior to the present application. Applicants do not dispute that the Daellenbach **provisional** was filed prior to the present application. However, the Daellenbach **publication** was filed after the filing date of the present application, and differs from the Daellenbach provisional in many respects. In particular, **the subject matter of the cited paragraph of the Daellenbach publication does not appear in the Daellenbach provisional**. That is, the subject matter of the cited paragraph is not properly supported by the Daellenbach provisional in compliance with 35 U.S.C. 112, as required by MPEP § 2136.03. Accordingly, the subject matter of the cited paragraph of the Daellenbach publication does not enjoy the priority date of the Daellenbach provisional. Consequently, the subject matter of the cited paragraph of the Daellenbach publication is not prior art with respect to the present application.

With respect to the citations to the Daellenbach provisional, Section 3.3.7 merely discloses that administrator software used to control an automatic teller machine can remotely update drivers. Section 3.4 of the Daellenbach provisional merely discloses that the administrator software can use encryption techniques to provide security for communications with the automatic teller machine. Neither the cited portions, nor any other portion of the Daellenbach provisional, discloses or renders obvious that the disclosed drivers **are encrypted in any manner**.

The Office responds at pages 2-3 that the Daellenbach provisional teaches (at Section 3.3.7) that the drivers are only updated remotely if network security requirements are met, and (at Section 3.4) that such network security requirements include encryption. However, Applicants respectfully point out that Section 3.4 does not teach encryption for network communications in any manner. Instead, Section 3.4 specifically indicates that the disclosed encryption is a **local** (i.e., for locally stored data) encryption, and nowhere discloses that encryption is provided for network communications. Further, Daellenbach nowhere discloses

that any routines of a software driver are encrypted in any manner. In other words, assuming *arguendo* that the Daellenbach provisional's disclosure of remotely updating software drivers corresponds to sending a routine of a software driver, there is no disclosure that the software driver is **encrypted** when it is sent. Accordingly, the Daellenbach provisional fails to disclose sending a first **encrypted** routine of a software driver as recited in claim 1.

For the reasons set forth above, the Daellenbach provisional fails to disclose at least one element of claim 1. Further, Ciacelli does not remedy the deficiencies of the Daellenbach provisional. Thus, Ciacelli and the Daellenbach provisional, individually and in combination, fail to disclose at least one element of claim 1.

Independent claims 31, 40, 47, and 49 recite features similar to those discussed above with respect to claim 1. Accordingly, for similar reasons to those set forth above with respect to claim 1, the cited references fail to disclose or render obvious at least one element of these independent claims.

Claims 2-3, 8, 9, 16, 63, and 64 depend from claim 1. Claims 33, 37, and 38 depend from claim 31. Claims 41, 43, and 46 depend from claim 40. Claims 50-52 depend from claim 49. Accordingly, the cited references fail to disclose or render obvious at least one element of these dependent claims, at least by virtue of their respective dependency on claims 1, 31, 40, and 49. In addition, these dependent claims recite additional novel elements.

In view of the foregoing, withdrawal of the obviousness rejection of claims 1-3, 8, 9, 13, 16, 31, 33, 37, 38, 40, 41, 43, 46, 47, 49-52, 63, and 64 and reconsideration of the claims is respectfully requested.

#### **Obviousness Rejection of Claims 10-12, 32, 39, 42, and 54**

At page 9 of the Office Action, claims 10-12, 32, 39, 42, and 54 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Daellenbach, in view of Ciacelli, and further in view of Hendricks (U.S. Patent No. 7,298,851). This rejection is hereby respectfully traversed.

Claims 10-12 depend from claim 1. Claims 32 and 39 depend from claim 31. Claim 42 depends from claim 40. Claim 54 depends from claim 49. As explained above, the Daellenbach provisional and Ciacelli, individually and in combination, fail to disclose or render obvious at

least one element of each of claims 1, 31, 40, and 49. Further, Hendricks does not remedy the deficiencies of the Daellebach provisional and Ciacelli. Accordingly, the cited references fail to disclose or render obvious at least one element of these dependent claims, at least by virtue of their respective dependency on claims 1, 31, 40, and 49. In addition, these dependent claims recite additional novel elements.

In view of the foregoing, withdrawal of the obviousness rejection of claims 10-12, 32, 39, 42, and 54 and reconsideration of the claims is respectfully requested.

#### **Obviousness Rejection of Claims 14 and 15**

At page 11 of the Office Action, claims 14 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Daellenbach, in view of Ciacelli, and further in view of Wilson (U.S. Patent No. 4,520,232). This rejection is hereby respectfully traversed.

Claims 14 and 15 depend from claim 1. As explained above, the Daellenbach provisional and Ciacelli, individually and in combination, fail to disclose or render obvious at least one element of claims 1. Further, Wilson does not remedy the deficiencies of the Daellebach provisional and Ciacelli. Accordingly, the cited references fail to disclose or render obvious at least one element of claims 14 and 15, at least by virtue of their dependency on claim 1. In addition, these dependent claims recite additional novel elements.

In view of the foregoing, withdrawal of the obviousness rejection of claims 14 and 15 and reconsideration of the claims is respectfully requested.

#### **Obviousness Rejection of Claims 4-7, 34-36, 44, 45, and 53**

At page 11 of the Office Action, claims 4-7, 34-36, 44, 45, and 53 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Daellenbach, in view of Ciacelli, and further in view of Freeman (U.S. Patent App. Pub. No. 2002/0129374). This rejection is hereby respectfully traversed.

Claims 4-7 depend from claim 1. Claims 34-36 depend from claim 31. Claims 44 and 45 depend from claim 40. Claim 53 depends from claim 49. As explained above, the Daellenbach provisional and Ciacelli, individually and in combination, fail to disclose or suggest at least one

element of each of claims 1, 31, 40, and 49. Further, Freeman does not remedy the deficiencies of the Daellebach provisional and Ciacelli. Accordingly, the cited references fail to disclose or render obvious at least one element of these dependent claims, at least by virtue of their respective dependency on claims 1, 31, 40, and 49. In addition, these dependent claims recite additional novel elements.

In view of the foregoing, withdrawal of the obviousness rejection of claims 4-7, 34-36, 44, 45, and 53 and reconsideration of the claims is respectfully requested.

### **Conclusion**

The Applicants respectfully submit that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-3797.

Respectfully submitted,

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